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AZ CORP COMMISSION  
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## BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON

Chairman

WILLIAM MUNDELL

Commissioner

JEFF HATCH-MILLER

Commissioner

KRISTIN MAYES

Commissioner

GARY PIERCE

Commissioner

IN THE MATTER OF QWEST  
CORPORATION'S PETITION FOR  
ARBITRATION AND APPROVAL OF  
AMENDMENT TO INTERCONNECTION  
AGREEMENT WITH ARIZONA DIALTONE,  
INC. PURSUANT TO SECTION 252(B) OF  
THE COMMUNICATIONS ACT OF 1934, AS  
AMENDED BY THE  
TELECOMMUNICATIONS ACT OF 1996  
AND APPLICABLE STATE LAWS

DOCKET NOS. T-01051B-07-0693  
T-03608A-07-0693

QWEST CORPORATION'S  
REQUEST FOR APPROVAL OF  
ARBITRATED AMENDMENT TO  
INTERCONNECTION AGREEMENT

Arizona Corporation Commission  
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Pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), R14-2-1508 of the Rules of the Arizona Corporation Commission (the "Commission"), and the Opinion and Order of the Commission in this matter in Decision No. 70460 (the "Order"), Qwest Corporation ("Qwest") hereby submits this statement and request for approval of the arbitrated amendment known as "Triennial Review Order and Triennial Review Remand Order ("TRO/TRRO") Amendment to the Interconnection Agreement between Qwest Corporation and Arizona Dialtone, Inc. for the State of Arizona Interconnection Agreement (the "TRRO Amendment") between Qwest and Arizona Dialtone, Inc. ("AZDT"). In support of its Request, Qwest states as follows:

1           1.       Qwest is a Colorado corporation and an incumbent local exchange carrier  
2 ("ILEC") in Arizona. The Commission has certified AZDT as a competitive local exchange  
3 carrier ("CLEC") in Arizona.

4           2.       This TRRO Amendment was reached through arbitration before this Commission  
5 pursuant to Section 252(b) of the Telecommunications Act of 1996 (the "Act") and A.A.C. R14-  
6 2-1505, and is submitted to the Commission for approval pursuant to Section 252(e)(1) of the  
7 Act and A.A.C. R14-2-1508. An executed copy of the TRRO Amendment is attached and  
8 incorporated as Exhibit A.

9           3.       AZDT and Qwest entered into the TRRO Amendment, subsequent to arbitration  
10 of certain issues before the Commission, to amend the existing Interconnection Agreement  
11 ("ICA") between them to implement changes mandated by the Federal Communications  
12 Commission ("FCC") Triennial Review Order ("TRO")<sup>1</sup> and Triennial Review Remand Order  
13 ("TRRO").<sup>2</sup> The TRO and TRRO established new rules applicable to ILECs' unbundling  
14 obligations regarding mass market local circuit switching, high capacity loops and dedicated  
15 interoffice transport effective March 11, 2005. The issues presented for arbitration resulted  
16 primarily from the changes adopted by the TRRO regarding the availability of unbundled mass  
17 market local circuit switching and the impact of those changes upon the ICA between Qwest and  
18 AZDT. The parties' arbitrated specifically over issues pertaining to AZDT's purchase of  
19 unbundled network platform ("UNE-P") services from Qwest, the availability of which was  
20 ended by the TRRO. The TRRO Amendment embodies the terms, conditions, and other

21 \_\_\_\_\_  
22 <sup>1</sup> *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local*  
23 *Exchange Carriers, Implementation of the Local Competition Provisions of the*  
24 *Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced*  
25 *Telecommunications Capability, Report and Order and Order on Remand and Further Notice of*  
26 *Proposed Rulemaking*, 18 FCC Rcd 16978 (2003) (*Triennial Review Order*), corrected by  
*Triennial Review Order Errata*, 18 FCC Rcd 19020 (2003).

<sup>2</sup> *In the Matter of Unbundled Access to Network Elements, Review of the Section 251*  
*Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand*, 20 FCC Rcd  
2533 (2005) (*Triennial Review Remand Order*).

1 provisions that the parties presented as undisputed at the arbitration. The TRRO Amendment  
2 also embodies terms and conditions consistent with the arbitration decisions made in the Order,  
3 including specific language that was approved by the Order.

4         4.       Section 252(e)(2)(B) of the Act directs that a state commission may reject an  
5 agreement reached through arbitration only if the Commission finds that the agreement (or any  
6 portion thereof) adopted by arbitration does not meet the requirements of Section 251, the FCC's  
7 regulations prescribed pursuant to Section 251, or the pricing standards of Section 252(d).  
8 Similarly, A.A.C. R14-2-1508 directs that for amendments resolved through arbitration (as this  
9 one was) Commission rejection shall be limited to failure to meet any of the applicable specific  
10 requirements of Section 251, including any applicable FCC regulations. As stated in the Order,  
11 the underlying purposes of the amendment are to implement the FCC's determinations made in  
12 the TRO and TRRO regarding Section 251. The arbitration determined those issues in light of  
13 the TRO and TRRO. The TRRO Amendment comports with the Order, and with Section 251  
14 and the FCC's regulations. The TRRO Amendment removes from the ICA the availability of  
15 mass market switching, thus aligning that ICA with the TRO and TRRO and other ICAs. The  
16 TRRO Amendment does not have discriminatory effect on AZDT or other carriers, and is  
17 consistent with the public interest as identified in the pro-competitive policies of the  
18 Commission, the State of Arizona, the FCC, and the Congress. The terms of the TRRO  
19 Amendment are consistent with the applicable state law and the rules and regulations of the  
20 Commission. Accordingly, the TRRO Amendment should be approved by the Commission.

21         5.       Because the Agreement results from arbitration before the Commission, Qwest  
22 requests that the Commission issue its order summarily and without hearing at the earliest  
23 possible date.

24         6.       All communications regarding this Application should be addressed to the  
25 following representatives:  
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Norman G. Curtright  
Corporate Counsel  
Qwest Corporation  
20 East Thomas Road, 16<sup>th</sup> Floor  
Phoenix, Arizona 85012

Larry T. Christensen  
Director Legal Issues  
Wholesale Markets  
Qwest Corporation  
1801 California Street, Suite 2430  
Denver, CO 80202-

Tom Bade  
President—Arizona Dialtone, Inc.  
6115 S. Kyrene Rd, Suite 103  
Tempe, AZ 85283

Glenn B. Hotchkiss, Esq.  
Cheifetz, Iannitelli Marcolini P.C.  
1850 North Central Avenue, 19<sup>th</sup> Floor  
Phoenix, Arizona 85004

**CONCLUSION**

For the foregoing reasons, Qwest respectfully requests that the Commission expeditiously process this matter without a hearing and issue an Order approving the TRRO Amendment.

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1 RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of September, 2008.  
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3 QWEST CORPORATION  
4

5 By:   
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Norman G. Curtright  
Corporate Counsel  
20 East Thomas Road, 16<sup>th</sup> Floor  
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Telephone: (602) 630-2187  
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1 ORIGINAL and 13 copies hand-delivered  
2 for filing this 5<sup>th</sup> day of September, 2008, to:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, AZ 85007

7 Sarah Harpring, Administrative Law Judge  
8 Hearing Division  
9 ARIZONA CORPORATION COMMISSION  
10 1200 W. Washington  
11 Phoenix, AZ 85007

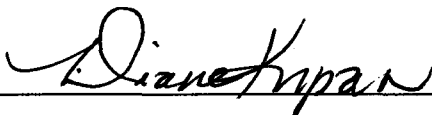
12 Armando Fimbres  
13 Utilities Division  
14 ARIZONA CORPORATION COMMISSION  
15 1200 W. Washington Street  
16 Phoenix, AZ 85007

17 Maureen A. Scott, Esq.  
18 Legal Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 W. Washington Street  
21 Phoenix, AZ 95007

22 Copy of the foregoing mailed  
23 this 5th day of September, 2008, to:

24 Tom Bade  
25 President—Arizona Dialtone, Inc.  
26 6115 S. Kyrene Rd, Suite 103  
Tempe, AZ 85283

Glenn B. Hotchkiss, Esq.  
Cheifetz, Iannitelli Marcolini P.C.  
1850 North Central Avenue, 19<sup>th</sup> Floor  
Phoenix, Arizona 85004

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# **EXHIBIT A**

**Triennial Review Order and Triennial Review Remand Order  
("TRO/TRRO") Amendment  
to the Interconnection Agreement between  
Qwest Corporation  
and  
Arizona Dialtone, Inc.  
for the State of Arizona**

This is an Amendment ("Amendment") to incorporate the Triennial Review Order and the Triennial Review Remand Order into the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and Arizona Dialtone, Inc. ("CLEC"), an Arizona corporation. Qwest and CLEC shall be known jointly as the "Parties".

**RECITALS**

WHEREAS, the Parties entered into an Interconnection Agreement (such Interconnection Agreement, as amended to date, being referred to herein as the "Agreement"), for services in the State of Arizona, that was approved by the Arizona Corporation Commission ("Commission") on November 8, 2001, as referenced in Docket No. T-01051B-01-0721, Decision No. 64190; and

WHEREAS, the Federal Communications Commission ("FCC") promulgated new rules and regulations pertaining to, among other things, the availability of UNEs pursuant to Section 251(c)(3) of the Telecommunications Act of 1996 ("Act") in its Report and Order In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98 and 98-147, (effective October 2, 2003) ("TRO"); and

WHEREAS, on February 4, 2005, the FCC released the Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand (Triennial Review Remand Order)(FCC 04-290) ("TRRO"), effective March 11, 2005, which further modified the rules governing Qwest's obligation to make certain UNEs available under Section 251(c)(3) of the Act; and

WHEREAS, the TRO and TRRO, individually and together ("Decisions") materially modify Qwest's obligations under the Act with respect to, among other things, Qwest's requirement to offer certain UNEs; and

WHEREAS, the Parties wish to amend the Agreement to comply with the Decisions hereby agree to do so under the terms and conditions contained herein.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:



## **I. Amendment Terms.**

To the extent applicable, the Agreement is hereby amended by deleting certain UNEs or by changing or adding terms and conditions for certain UNEs as set forth in Attachment 1 to this Amendment, attached hereto and incorporated herein by this reference.

## **II. Limitations.**

Nothing in this Amendment shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the Decisions, nor rules, regulations, interpretations, and appeals thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same. Nothing in this Amendment shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of Decisions or concerning whether the Decisions should be changed, vacated, dismissed, stayed or modified.

## **III. Conflicts.**

In the event of a conflict between this Amendment and the terms and conditions of the Agreement, this Amendment shall control, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement shall not be interpreted as, or deemed a grounds for finding, a conflict for purposes of this Section III.

## **IV. Scope.**

This Amendment shall amend, modify and revise the Agreement only to the extent the UNEs listed in Attachment 1 are included in the Agreement and, except to the extent set forth in Section I and Section II of this Amendment, the terms and provisions of the Agreement shall remain in full force and effect after the execution date.

## **V. Effective Date.**

This Amendment shall be deemed effective upon approval by the Commission, but the Parties agree to implement the terms of this Amendment upon execution.

## **VI. Further Amendments.**

The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

## **VII. Entire Agreement.**

The Agreement as amended (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of the Agreement as amended and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of the Agreement as amended.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

**Arizona Dialtone, Inc.**

  
Signature

\_\_\_\_\_  
Name Printed/Typed

  
Title

9/4/08  
Date

**Qwest Corporation**

\_\_\_\_\_  
Signature

L. T. Christensen  
Name Printed/Typed

Director – Interconnection Agreements  
Title

\_\_\_\_\_  
Date

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

**Arizona Dialtone, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Qwest Corporation**

  
\_\_\_\_\_  
Signature

L. T. Christensen  
\_\_\_\_\_  
Name Printed/Typed

Director – Interconnection Agreements  
\_\_\_\_\_  
Title

9/3/08  
\_\_\_\_\_  
Date

## ATTACHMENT 1

### 1.0 Definitions

"Commingling" means the connecting, attaching, or otherwise linking of UNE, or a Combination of UNEs, to one or more facilities or services that a requesting Telecommunications Carrier has obtained at wholesale from Qwest, or the combination of an UNE, or a Combination of UNEs, with one or more such facilities or services.

"Commingle" means the act of Commingling.

"Dark Fiber" is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

"Dedicated Transport" is Qwest transmission facilities between wire centers or switches owned by Qwest, or between wire centers or switches owned by Qwest and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.

"Interexchange Service" means telecommunications service between stations in different exchange areas. Cf. Modification of Final Judgment, § IV(K), reprinted in *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 229 (D.D.C. 1982) (defining "interexchange telecommunications" as "telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area").

"Long Distance Service" (see "Interexchange Service").

"Mobile Wireless Service" means all mobile wireless telecommunications services, including commercial mobile radio service ("CMRS"). CMRS includes paging, air-ground radio, telephone service and offshore radiotelephone services, as well as mobile telephony services, such as the vice offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.

"Unbundled Network Element" or "UNE" is a Network Element that has been defined by the FCC as a Network Element to which Qwest is obligated under Section 251(c)(3) of the Act to provide unbundled access or for which unbundled access is provided under CLEC's Agreement and under this Amendment. UNEs do not include those Network Elements Qwest is obligated to provide only pursuant to Section 271 of the Act.

"Wire Center" A wire center is the location of a Qwest local Switching facility containing one or more central offices, as defined in the Appendix to part 36 of chapter 1 of Title 47 of the Code of Federal Regulations. The wire center boundaries define the area in which all customers served by a given wire center are located.

## ATTACHMENT 1

### 2.0 Unbundled Network Elements (UNE) General

**2.1** CLEC's Agreement may include terms and conditions for certain Network Elements that Qwest is no longer required to offer on an unbundled basis pursuant to Section 251 of the Act. The FCC determined in its Decisions, that certain UNEs no longer satisfy the FCC's impairment test, and as a result, Qwest is no longer obligated to offer to CLEC those Network Elements on an unbundled basis pursuant to Section 251 of the Act. The FCC also modified certain terms and conditions for other UNEs.

**2.2** As of the execution date of this Amendment, CLEC shall not order, and Qwest will not provide, the following Network Elements on an unbundled basis pursuant to Section 251 of the Act:

#### 2.2.1 Unbundled Loops

- a) DS1 Loops
- b) DS3 Loops
- c) OCn Loops
- d) FTTH & FTTC Loops subject to the requirements of Section 3.1.6 following
- e) Dark Fiber Loops
- f) Hybrid Loops (non-copper distribution Loops) except as identified in Section 3.1.7 following
- g) Line Sharing
- h) Feeder-Sub-Loop
- i) Shared Distribution Loops

#### 2.2.2 Transport

- a) E-UDIT (Extended Unbundled Dedicated Interoffice Transport); Transport from a CLEC's Premises to a Qwest Wire Center;
- b) E-UDF (Extended Unbundled Dark Fiber); Transport from a CLEC's Premises to a Qwest Wire Center;
- c) OCn UDIT; including Remote Node/Remote Port and SONET add/drop multiplexing
- d) UDIT and UDF as a part of a Meet-Point arrangement;
- e) DS1 Transport (UDIT)
- f) DS3 Transport (UDIT)
- g) Dark Fiber Transport (UDF-IOF)
- h) Multiplexing associated with UDIT and Loop/Mux Combo

#### 2.2.3 Unbundled Switching

- a) Packet Switching
- b) Tandem Switching
- c) Mass Market Switching, including UNE-P and related services as identified in Section 2.2.3.1
- d) Enterprise Local Switching, including UNE-P and related services as identified in Section 2.2.3.1
- e) Signaling Networks (stand alone)

## ATTACHMENT 1

### 2.2.3.1 Related services

- a) Customized Routing
- b) Signaling
- c) AIN Database Services
- d) Line Information Database (LIDB)
- e) 8XX Database Services
- f) InterNetwork Calling Name (ICNAM)
- g) Local Number Portability (LNP) Database
- h) Shared Transport

### 2.2.4 Transition

**2.2.4.1** Transition plans for embedded Network Elements identified in the above lists are identified in the following sections.

**2.3** *After execution of this Amendment, Qwest shall back bill the FCC ordered rate increases to March 11, 2005, for existing Mass Market Switching Services pursuant to Transition rate increases identified in Section 5.1. Such back billing shall not be subject to billing measurements and penalties.<sup>1</sup>*

**2.4** UNEs shall be obtained solely for the provision of Telecommunications Services and only to the extent allowed by law.

**2.5** CLEC may not access UNEs for the exclusive provision of Mobile Wireless Services or Interexchange Services.

**2.6** If CLEC accesses and uses a UNE consistently with Sections 2.4 and 2.5, CLEC may provide any Telecommunications Services over the same UNE.

**2.7** CLEC represents that as of the effective date of this Amendment, CLEC has not purchased any DS1, DS3, dark fiber, or EEL (IOF) facilities from Qwest. The parties agree that DS1, DS3, dark fiber, EELs (IOF), Stand Alone Signaling, E-UDIT (Extended Unbundled Dedicated Interoffice Transport) M-UDIT (Meet Point Unbundled Dedicated Interoffice Transport) will no longer be available under the Agreement.

### 3.0 Unbundled Loop

**3.1** Only DSO Unbundled Loops are available pursuant to CLEC's Agreement.

**3.1.1** INTENTIONALLY LEFT BLANK

**3.1.2** INTENTIONALLY LEFT BLANK

**3.1.3** INTENTIONALLY LEFT BLANK

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<sup>1</sup> Arizona Corporation Commission, Opinion and Order, Docket Nos. T-01051B-07-0693, T-03608A-07-0693, Decision No. 70460, Dated August 6, 2008.

## ATTACHMENT 1

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### 3.1.5 INTENTIONALLY LEFT BLANK

**3.1.6 FTTH and FTTC Loops.** For purposes of this Section, a Fiber-to-the-Home (FTTH) loop is a local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an End User Customer's Premises, or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the MDU's minimum point of entry (MPOE). For purposes of this Section, a Fiber-to-the-Curb (FTTC) loop is a local loop consisting of fiber optic cable connecting to a copper distribution plant loop that is not more than 500 feet from the End User Customer's Premises or, in the case of predominantly residential MDU, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a FTTC must connect to a copper distribution plant loop at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective End User Customer's Premises.

**3.1.6.1 FTTH/FTTC New Builds.** Qwest shall have no obligation to provide access to an FTTH/FTTC loop as an Unbundled Network Element in any situation where Qwest deploys such a loop to an End User Customer's Premises that had not previously been served by any loop facility prior to October 2, 2003.

**3.1.6.2 FTTH/FTTC Overbuilds.** Qwest shall have no obligation to provide access to an FTTH/FTTC loop as an Unbundled Network Element in any situation where Qwest deploys such a loop parallel to, or in replacement of, an existing copper loop facility. Notwithstanding the foregoing, where Qwest deploys a FTTH/FTTC loop parallel to, or in replacement of, an existing copper loop facility:

**3.1.6.2.1** Qwest shall: (i) leave the existing copper loop connected to the End User Customer's Premises after deploying the FTTH/FTTC loop to such Premises, and (ii) upon request provide access to such copper loop as an Unbundled Network Element. Notwithstanding the foregoing, Qwest shall not be required to incur any expense to ensure that any such existing copper loop remains capable of transmitting signals prior to receiving a request from CLEC for access, as set forth above, in which case Qwest shall restore such copper loop to serviceable condition on an Individual Case Basis. Any such restoration shall not be subject to Performance Indicator Definition or other performance service measurement or intervals. Qwest's obligations under this subsection 3.1.6.2.1 shall terminate when Qwest retires such copper Loop in accordance with the provisions of Section 3.1.6.3 below.

**3.1.6.2.2** In the event Qwest, in accordance with the provisions of Section 3.1.6.3 below, retires the existing copper loop connected to the End User Customer's Premises, Qwest shall provide access, as an Unbundled Network Element, over the FTTH/FTTC loop to a 64 kbps transmission path capable of voice grade service.

**3.1.6.3 Retirement of Copper Loops or Copper Subloops and Replacement with FTTH/FTTC Loops.** In the event Qwest decides to replace any copper loop or copper Subloop with a FTTH/FTTC Loop, Qwest will: (i) provide notice of such planned

## ATTACHMENT 1

replacement on its web site ([www.qwest.com/disclosures](http://www.qwest.com/disclosures)); (ii) provide by e-mail notice of such planned retirement to CLEC and (iii) provide public notice of such planned replacement to the FCC. In addition, if Qwest determines that CLEC's End User's service will be negatively impacted by a planned retirement, Qwest will provide an additional e-mail notice to CLEC, via its account team, that shall include the following information: city and state; wire center; planned retirement date; the FDI address; a listing of all impacted addresses in the DA; old and new cable media, including transmission characteristics; circuit information; and cable and pair information. Such notices shall be in addition to any applicable state Commission notification that may be required. Any such notice provided to the FCC shall be deemed approved on the ninetieth (90<sup>th</sup>) Day after the FCC's release of its public notice of the filing, unless an objection is filed pursuant to the FCC's rules. In accordance with the FCC's rules: (i) a CLEC objection to a Qwest notice that it plans to replace any copper Loop or copper subloop with a FTTH/FTTC Loop shall be filed with the FCC and served upon Qwest no later than the ninth (9<sup>th</sup>) business day following the release of the FCC's public notice of the filing and (ii) any such objection shall be deemed denied ninety (90) Days after the date on which the FCC releases public notice of the filing, unless the FCC rules otherwise within that period.

**3.1.7 Hybrid Loops.** A "Hybrid Loop" is an Unbundled Loop composed of both fiber optic cable, usually in the feeder plant, and copper wire or cable, usually in the distribution plant.

**3.1.7.1 Broadband Services.** When CLEC seeks access to a Hybrid Loop for the provision of broadband services, including DS1 or DS3 capacity, but not DSL, Qwest shall provide CLEC with non-discriminatory access on an unbundled basis to time division multiplexing features, functions, and capabilities of that Hybrid Loop, only where impairment has been found to exist to establish a complete transmission path between Qwest's Central Office and an End User Customer's premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop that are not used to transmit packetized information.

**3.1.7.2 Narrowband Services.** When CLEC seeks access to a Hybrid Loop for the provision of narrowband services, Qwest may either:

**3.1.7.2.1** Provide non-discriminatory access, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology; or

**3.1.7.2.2** Provide nondiscriminatory access to a spare home-run copper loop serving that End User Customer on an unbundled basis.

**3.1.8 Subloop Unbundling.** An Unbundled Subloop is defined as the distribution portion of a copper Loop or hybrid Loop comprised entirely of copper wire or copper cable that acts as a transmission facility between any point that it is Technically Feasible to access at terminals in Qwest's outside plant (originating outside of the Central Office), including inside wire owned or controlled by Qwest, and terminates at the End User Customer's premises. An accessible terminal is any point on the Loop where technicians can access the wire within



## ATTACHMENT 1

the cable without removing a splice case to reach the wire within. Such points may include, but are not limited to, the pole, pedestal, Network Interface Device, minimum point of entry, single point of Interconnection, Remote Terminal, Feeder Distribution Interface (FDI), or Serving Area Interface (SAI). CLEC shall not have access on an unbundled basis to a feeder subloop defined as facilities extending from the Central Office to a terminal that is not at the End User Customer's premises or multiple tenant environment (MTE). CLEC shall have access to the feeder facilities only to the extent it is part of a complete transmission path, not a subloop, between the Central Office and the End User Customer's premises or MTE. This section does not address Unbundled Dark Fiber MTE Subloop.

**3.1.8.1** Qwest's obligation to construct a Single Point of Interface (SPOI) is limited to those MTEs where Qwest has distribution facilities to that MTE and owns, controls, or leases the inside wire at the MTE. In addition, Qwest shall have an obligation to construct a SPOI only when CLEC indicates that it intends to place an order for access to an unbundled Subloop Network Element via a SPOI.

**3.1.8.2** Access to Distribution Loops or Intrabuilding Cable Loops at an MTE Terminal within a non-Qwest owned MTE is done through an MTE-POI. Collocation is not required to access Subloops used to access the network infrastructure within an MTE, unless CLEC requires the placement of equipment in a Qwest Premises. Cross-Connect Collocation, refers to creation of a cross connect field and does not constitute Collocation. The terms and conditions of Collocation do not apply to Cross-Connect Collocation if required at or near an MTE.

**3.1.8.3 Retention of Embedded Services – Feeder Subloops.** All embedded CLEC services over Feeder Subloops in place prior to the signature on this Amendment will be "grandfathered" subject to re-classification upon any modification to or disconnection of the service. Recurring charge rates effective prior to the signature on this amendment will remain in place. No new requests will be accepted for Feeder Subloop subsequent to signature on this Amendment.

**3.1.9 Line Sharing.** Qwest shall not be required to provide Line Sharing unless the Agreement has been amended with a Qwest Commercial Line Sharing Amendment.

**3.1.10 Shared Distribution Loop.** Qwest shall not be required to provide Shared Distribution Loop unless the Agreement has been amended with a Qwest Commercial Shared Distribution Loop Amendment.

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### **5.0 Unbundled Local Switching**

### **5.1 Transition of Unbundled Local circuit Switching, including UNE-P Services**

#### **5.1.1 DS0 Capacity (Mass Market), including UNE-P**

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**5.1.1.1** Qwest is not required to provide access to local circuit Switching on an unbundled basis to CLEC for the purpose of serving end-user customers using DS0 capacity loops.

**5.1.1.1.1** CLEC represents that as of the effective date of this Amendment, CLEC has not purchased any: 1) Mass market or enterprise stand-alone switching services; 2) Enterprise switching services as part of UNE-P; 3) Mass market switching services as a part of UNE-P other than UNE-P PAL and UNE-P POTS; or Line Splitting services from Qwest. The Parties agree that these services will no longer be available under the Agreement.

**5.1.1.2** CLEC shall disconnect or migrate its embedded base of end-user customers off of the unbundled local circuit Switching element to an alternative arrangement within 90 calendar days after the execution date of this Amendment.

**5.1.1.3** Pursuant to the Triennial Review Remand Order, CLEC may not obtain new local Switching as a UNE.

**5.1.1.4** *Use between March 11, 2005 and March 10, 2006 - The price for the unbundled local circuit switching in combination with unbundled DS0 capacity loops and shared transport obtained under the Agreement, effective March 11, 2005 through March 10, 2006 shall be the rate at which the requesting carrier obtained that combination of network elements on June 15, 2004 plus one dollar. Effective upon execution of this Amendment, CLEC will be billed the one dollar increase for all lines that were in service during this period.<sup>2</sup>*

**5.1.1.5** *Use after March 10, 2006 - For any and all UNE-P services leased by CLEC from Qwest after March 10, 2006, effective upon execution of this Amendment, CLEC is subject to back billing to March 11, 2006 for the difference between the rate for the UNE and a rate equal to the Qwest month-to-month local exchange resale service alternatives identified in Section 5.1.1.6.1. CLEC may pay the back billed amount in equal periodic installments, without interest, over a period of 29 months.<sup>3</sup>*

**5.1.1.6** **Failure to Convert Non-Impaired Networks Elements – Mass Market Switching, including UNE-P**

**5.1.1.6.1** **UNE-P POTS & UNE-P PAL:** Absent CLEC transition within 90 calendar days after the execution date of this Amendment, Qwest will convert services to the equivalent month to month Qwest local exchange measured rate resale services e.g. class of service (COS) LMB. In the event measured services are unavailable, services will be converted to the equivalent month-to-month Qwest local exchange flat rate resale services, e.g. COS 1FB. All UNE-P POTS services will be converted to a month-to-month Business COS. All UNE-P PAL services will be converted to a

<sup>2</sup> Arizona Corporation Commission, Opinion and Order, Docket Nos. T-01051B-07-0693, T-03608A-07-0693, Decision No. 70460, Dated August 6, 2008.

<sup>3</sup> Arizona Corporation Commission, Opinion and Order, Docket Nos. T-01051B-07-0693, T-03608A-07-0693, Decision No. 70460, Dated August 6, 2008.

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month-to-month PAL COS. CLEC is also responsible for all manual non-recurring charges associated with such conversions.

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### **6.3 Commingling**

**6.3.1** To the extent it is Technically Feasible, CLEC may Commingle Telecommunications Services purchased on a resale basis with an Unbundled Network Element or combination of Unbundled Network Elements. Notwithstanding the foregoing, the following are not available for resale Commingling:

- a) Non-telecommunications services;
- b) Enhanced or Information services;
- c) Network Elements offered pursuant to Section 271.

**6.3.2** CLEC may Commingle UNEs and combinations of UNEs with wholesale services and facilities (e.g., Switched and Special Access Services offered pursuant to Tariff) and request Qwest to perform the necessary functions to provision such Commingling. CLEC will be required to provide the CFA (Connecting Facility Assignment) of CLEC's network demarcation (e.g., Collocation or multiplexing facilities) for each UNE, UNE Combination, or wholesale service when requesting Qwest to perform the Commingling of such services. Qwest shall not deny access to a UNE on the grounds that the UNE or UNE Combination shares part of Qwest's network with Access Services.

**6.3.3** When a UNE and service are commingled, the service interval for each facility being commingled will apply only as long as a unique provisioning process is not required for the UNE or service due to the commingling. Performance measurements and/or remedies are not applicable to the total commingled arrangement but do apply to each facility or service ordered within the commingled arrangement. Work performed by Qwest to provide Commingled services that are not subject to standard provisioning intervals will not be subject to performance measures and remedies, if any, contained in this Agreement or elsewhere, by virtue of that service's inclusion in a requested Commingled service arrangement. Provisioning intervals applicable to services included within a requested Commingled service arrangement will not begin to run until CLEC provides a complete and accurate service request, necessary CFAs to Qwest, and Qwest completes work required to perform the Commingling that is in addition to work required to provision the service as a stand-alone facility or service.

**6.3.4** Qwest will not combine or Commingle services or Network Elements that are offered by Qwest pursuant to Section 271 of the Communications Act of 1934, as amended, with Unbundled Network Elements or combinations of Unbundled Network Elements.

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**6.3.5** Services are available for Commingling only in the manner in which they are provided in Qwest's applicable product Tariffs, catalogs, price lists, or other Telecommunications Services offerings.

**6.3.6** Entrance Facilities and mid-span meet SPOI obtained pursuant to the Local Interconnection section of the Agreement are not available for Commingling.

**6.3.7** CLEC may request Qwest to commingle DS1 or DS0 analog voice grade unbundled Loops with DS3 or DS1 multiplexed facilities ordered by CLEC from Qwest's special access or private line Tariffs.

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### **7.0 Ratcheting**

**7.1** To the extent that CLEC requests Qwest to commingle a UNE or a UNE Combination with one or more facilities or services that CLEC has obtained at wholesale from Qwest pursuant to a method other than unbundling under Section 251(c)(3) of the Act, Qwest will not be required to bill that wholesale circuit at multiple rates, otherwise known as ratcheting. Such commingling will not affect the prices of UNEs or UNE Combinations involved.

**7.2** To the extent a multiplexed facility is included in a Commingled circuit then: (1) the multiplexed facility will be ordered and billed at the UNE rate if and only if all circuits entering the multiplexer are UNEs and (2) in all other situations the multiplexed facility will be ordered and billed pursuant to the appropriate Tariff.

### **8.0 Routine Network Modifications**

**8.1** Qwest shall make all routine network modifications to unbundled loop and transport facilities used by CLEC where the requested loop or transport facility has already been constructed. Qwest shall perform these routine network modifications to unbundled loop or transport facilities in a nondiscriminatory fashion, without regard to whether the loop or transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

**8.2** A routine network modification is an activity that Qwest regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that Qwest ordinarily attaches to a DS1 loop to activate such loop for its own customer. They also include activities needed to enable CLEC to light a dark fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for CLEC.